

1 BILL NO. S-82-11-08

2 SPECIAL ORDINANCE NO. S-237-82

3 AN ORDINANCE approving Street Improvement  
4 Resolution No. 5944-82, Harrison Hill  
5 Addition Resurfacing, with Wayne Asphalt  
6 and Construction Company, in connection  
7 with the Board of Public Works.

8 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF  
9 FORT WAYNE, INDIANA:

10 SECTION 1. That a certain Contract dated September 8,  
11 1982, between the City of Fort Wayne, Indiana, by and through  
12 its Mayor and the Board of Public Works and Wayne Asphalt and  
13 Construction Company, for:


14 the resurfacing and restoration of pavement  
15 on the following streets: Lindenwood Avenue,  
16 Portage Boulevard, Branning Avenue, Lexington  
17 Avenue, North Cornell Circle, Radial Lane,  
18 South Seminole Circle, South Cornell Circle,  
19 North Seminole Circle, Pasadena Drive, Maxine  
20 Drive, West Foster Parkway, Hoagland Avenue,  
21 and Webster Street;

22 under Board of Public Works Street Improvement Resolution No.  
23 5944-82, involving a total cost of One Hundred Ninety-Six  
24 Thousand Six Hundred Fifty-Five and 30/100 Dollars (\$196,655.30),  
25 all as more particularly set forth in said Resolution and Contract,  
26 and which is on file with the Office of the Board of Public  
27 Works and is by reference incorporated herein, made a part hereof,  
28 and is hereby in all things ratified, confirmed and approved.  
29 Two copies of said Contract are on file with the Office of the  
30 City Clerk and made available for public inspection, according  
31 to law.

32 SECTION 2. That this Ordinance shall be in full force  
and effect from and after its passage and any and all necessary  
approval by the Mayor.

APPROVED AS TO FORM  
AND LEGALITY

  
Councilmember

  
Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Stier, seconded by Bradbury, and duly adopted, read the second time by title and referred to the Committee Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: 12-14-82

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Stier, seconded by Bradbury, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCRUGGS</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 12-28-82

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)

(APPROPRIATION) ORDINANCE (RESOLUTION) NO. 237-82  
on the 28th day of December, 1982

ATTEST:

(SEAL)

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Samuel J. Talarico  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th day of December, 1982, at the hour of 11:30 o'clock PM, E.S.T.

Charles W. Westerman  
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 3rd day of January, 1983, at the hour of 12:30 o'clock P, M., E.S.T.

Win Moses, Jr.  
WIN MOSES, JR. - MAYOR

*Pineapple*

BILL NO. S-82-12-08

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN  
ORDINANCE approving Street Improvement Resolution No. 5944-82,  
Harrison Hill Addition Resurfacing, with Wayne Asphalt and  
Construction Company, in connection with the Board of Public Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT  
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE do PASS.

JAMES S. STIER, CHAIRMAN

BEN A. EISBART, VICE CHAIRMAN

VICTURE L. SCRUGGS

MARK E. GIAQUINTA

DONALD J. SCHMIDT

*12-28-82*

*John H.*  
*Ben A. Eisbart*  
*Victure L. Scruggs*  
*Mark E. Giaquinta*  
*D. Schmidt*

DATE 12-28-82 CHARLES W. WESTERMAN, CITY CLERK

REQUEST AND JUSTIFICATION FOR CHANGE

1. Necessity for change: TO EQUATE CONTRACT AMOUNT AND TO CORRECT AMOUNTS FOR WORK  
ACTUALLY PERFORMED.

2. Will proposed change alter size of the project? Yes \_\_\_\_\_ No X \_\_\_\_\_  
If yes, explain

3. Affect on operation and maintenance cost of this project:

NONE

  
Terry L. Atherton, P.E., Chief Water Engineer



The Contractor hereby expressly agrees to perform all the work in the prosecution of the above described improvement according to the terms and conditions of Improvement Resolution No. 5944-82, the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally and in all respects completed on or before Sept. 30, 1982 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said

Date \_\_\_\_\_, 19\_\_\_\_ until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 8

day of Sept, 1982

ATTEST:

Edward F. Dehner  
Corporate Secretary

WAYNE ASPHALT AND CONSTRUCTION CO., INC.

BY: C. K. Stewart

ITS: C. K. STEWART, PRES.

Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

[Signature]  
Don Anderson  
Bruce R. Collins

ATTEST:

[Signature]  
Secretary and Clerk

Its Board of Public Works and Mayor.

[Signature]  
ASSOCIATE CITY ATTORNEY

- 1) LINDENWOOD AVENUE - From the south pavement line of Spring Street to the south property line of Scholtz Road.
- 2) PORTAGE BOULEVARD - From the west pavement line of Freeman Street to the north curb line of Taylor Street.
- 3) BRANNING AVENUE - From the west curb line of Calhoun Street to the east curb line of Webster Street.
- 4) LEXINGTON AVENUE - From the west curb line of Calhoun Street to the east curb line of Buell Drive.
- 5) NORTH CORNELL CIRCLE - From the east property line of Lot #44 (Harrison Hill Addition) to the north curb line of Radial Lane.
- 6) RADIAL LANE - From the west curb line of North Seminole Circle to the east curb line of North Cornell Circle.
- 7) SOUTH SEMINOLE CIRCLE - From the west curb line of Calhoun Street to the north curb line of Radial Lane.
- 8) NORTH SEMINOLE CIRCLE - From the west curb line of Calhoun Street to the north curb line of Radial Lane.
- 9) SOUTH CORNELL CIRCLE - From the west curb line of Calhoun Street to the north curb line of Radial Lane.
- 10) PASADENA DRIVE - From the southwest curb line of South Cornell Circle to the east curb line of Buell Drive.
- 11) MAXINE DRIVE - From the west curb line of Hoagland Avenue to the east curb line of Buell Drive.
- 12) WEST FOSTER PARKWAY - From the west curb line of Calhoun Street to the east curb line of Webster Street.
- 13) WEST FOSTER PARKWAY - From the west curb line of Indiana Avenue to its western terminus.
- 14) HOAGLAND AVENUE - From the north property line of Lexington Avenue to the north property line of Sherwood Terrace.
- 15) WEBSTER STREET - From the south curb line of Lexington Avenue to the north curb line of North Cornell Circle.



Joint & Crack Sealer	Three hundred and fifty dollars and no cents per ton	350.00
#53 Crushed Stone	Five dollars and seventy-five cents per ton	5.75
Manholes - Adjust & Set to Grade	One hundred and thirty dollars and no cents per each	130.00
Catch Basins - Adjust & Set to Grade	One hundred and thirty dollars and no cents per each	130.00
Water Valves - Adjust & Set to Grade	Forty dollars and no cents per each	40.00
Total	One hundred and ninety-six thousand, six hundred and fifty-five dollars and thirty cents	\$196,655.30

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts, is attached and incorporated herein by reference.



IMPROVEMENT RESOLUTION

FOR STREETS

NO. 5944 - 1982

RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF FORT WAYNE, INDIANA, that it is deemed necessary to improve by resurfacing and restoring pavement as designated on the following streets to be known as:

- 1) LINDENWOOD AVENUE - From the south pavement line of Spring Street to the south property line of Scholtz Road.
- 2) PORTAGE BOULEVARD - From the west pavement line of Freeman Street to the north curb line of Taylor Street.
- 3) BRANNING AVENUE - From the west curb line of Calhoun Street to the east curb line of Webster Street.
- 4) LEXINGTON AVENUE - From the west curb line of Calhoun Street to the east curb line of Buell Drive.
- 5) NORTH CORNELL CIRCLE - From the east property line of Lot #44 (Harrison Hill Addition) to the north curb line of Radial Lane.
- 6) RADIAL LANE - From the west curb line of North Seminole Circle to the east curb line of North Cornell Circle.
- 7) SOUTH SEMINOLE CIRCLE - From the west curb line of Calhoun Street to the north curb line of Radial Lane.
- 8) NORTH SEMINOLE CIRCLE - From the west curb line of Calhoun Street to the north curb line of Radial Lane.
- 9) SOUTH CORNELL CIRCLE - From the west curb line of Calhoun Street to the north curb line of Radial Lane.
- 10) PASADENA DRIVE - From the southwest curb line of South Cornell Circle to the east curb line of Buell Drive.
- 11) MAXINE DRIVE - From the west curb line of Hoagland Avenue to the east curb line of Buell Drive.
- 12) WEST FOSTER PARKWAY - From the west curb line of Calhoun Street to the east curb line of Webster Street.
- 13) WEST FOSTER PARKWAY - From the west curb line of Indiana Avenue to its western terminus.
- 14) HOAGLAND AVENUE - From the north property line of Lexington Avenue to the north property line of Sherwood Terrace.
- 15) WEBSTER STREET - From the south curb line of Lexington Avenue to the north curb line of North Cornell Circle.

with Hot Asphalt Binder (as per design mix formula)  
with Hot Asphalt Top Surface (as per design mix formula)

All in accordance with the specifications on file in the office of the Department of Public Works of said City; and such improvement is now ordered.

IMPROVEMENT RESOLUTION FOR STREETS  
NO. 5944-82

It is hereby found by said Board of Public Works that all benefits accruing hereunder will be to the general public of the City of Fort Wayne and that no special benefits will accrue to any property owner adjoining said improvement or otherwise assessable under said improvement. The cost of said improvement shall be paid by the City of Fort Wayne, Indiana from monies appropriated from MVH and LR&S Funds.

ADOPTED, this \_\_\_\_\_ day of \_\_\_\_\_, 1982.

ATTEST: \_\_\_\_\_  
Secretary & Clerk

BOARD OF PUBLIC WORKS  
CITY OF FORT WAYNE, INDIANA

\_\_\_\_\_  
Stephen A. Bailey, Chairman

\_\_\_\_\_  
Roberta Anderson-Staten, Member

\_\_\_\_\_  
Betty R. Collins, Member

PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_  
as Principal, and the ----- WAYNE ASPHALT & CONSTRUCTION CO. -----

*United States Fidelity & Guaranty*, a corporation organized under the laws of the  
State of *Maryland*, and duly authorized to transact business in the  
State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne,  
Indiana, an Indiana Municipal Corporation in the sum of ONE HUNDRED AND NINETY-  
SIX THOUSAND, SIX HUNDRED AND FIFTY-FIVE DOLLARS AND THIRTY CENTS -----  
(\$ 196,655.30-----), for the payment whereof well and truly to be made,  
the Principal and Surety bind themselves, their heirs, executors, administrators,  
successors and assigns, jointly and severally, firmly by these presents. The  
condition of the above obligation is such that

WHEREAS, the Principal did on the 8 day of Sept., 1982,  
enter into a contract with the City of Fort Wayne to construct

Improvement Resolution No. 5944-82

To improve by resurfacing and restoring pavement as noted on attached contract.

at a cost of \$ 196,655.30-----, according to certain plans and specifications  
prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement  
provides:

1. That said improvement shall be completed according to said plans and specifications, and contractor shall warrant and guarantee all work, material, and conditions of the improvement for a period of three (3) years from the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after completion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifications, and repairs as required by the City within thirty (30) days after notice.

WHEREAS, said Surety, for value received, hereby stipulates and agrees, that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and conditions required of it by the contract and shall for three (3) years after acceptance of said improvement by City warrant and guarantee said improvement and shall indemnify the City for all loss that City may sustain by reason of the Principal's failure to comply with any of the terms of the authorization, then this obligation shall be void, otherwise it shall remain in full force and effect.

WAYNE ASPHALT & CONSTRUCTION CO.

(Contractor)

BY: C. K. Stewart

ITS: C. K. STEWART, PRES.

ATTEST:

Edward F. Dehner  
Sec.  
(Title)

United State Fidelity & Guaranty  
Surety  
\*BY: James J. [Signature]  
Authorized Agent  
(Attorney-in-Fact)

\*If signed by an agent, power of attorney must be attached

ATTACH POWER OF ATTORNEY

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

----- WAYNE ASPHALT & CONSTRUCTION COMPANY, INC. -----

(Name of Contractor)

----- 6600 Ardmore Avenue, Fort Wayne, Indiana 46809 -----

(Address)

a -----, hereinafter called Principal,  
(Corporation, Partnership or Individual)

and United States Fidelity & Guaranty  
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of ONE HUNDRED AND NINETY-SIX THOUSAND, SIX HUNDRED AND FIFTY-FIVE DOLLARS AND THIRTY CENTS -----  
for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 8 day of Sept, 1982, for the construction of:

Improvement Resolution No. 5944-82

To improve by resurfacing and restoring pavement as noted on attached contract.

at a cost of ONE HUNDRED AND NINETY-SIX THOUSAND, SIX HUNDRED AND FIFTY-FIVE DOLLARS AND THIRTY CENTS -----  
(\$196,655.30-----), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subconstructor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in 3 counter-  
(number)  
parts, each one of which shall be deemed an original, this 8 day of  
Sept, 1979.  
82

(SEAL)

ATTEST:

Edward J. Dehner  
Secr.  
(Principal) Secretary

WAYNE ASPHALT & CONSTRUCTION CO.

Principal

BY C. K. Stewart

C. K. STEWART, PRES.

(Title)

(Address)

Witness as to Principal

(Address)

North State Fidelity & Guaranty  
Surety  
BY James H. [unclear]  
Attorney-in-Fact  
(Authorized Agent)

(Address)

Sam I. [unclear]  
Witness as to Surety

(Address)

NOTE: Date of Bond must not be prior to date of Contract.  
If Contractor is Partnership, all partners should execute bond.

ATTACH POWER OF ATTORNEY

TITLE OF ORDINANCE Street Improvement Resolution #5944-82 Harrison Hill Addition  
Resurfacing

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE Resurfacing and restoring pavement on following streets;

Lindenwood Avenue, Portage Boulevard, Branning Avenue, Lexington Avenue, N. Cornell  
Circle, Radial Lane, South Seminole Circle, North Seminole Circle, South Cornell  
Circle, Pasadena Drive, Maxine Drive, West Foster Parkway, Hoagland Avenue, Webster  
Street. This contract was awarded to Wayne Asphalt & Construction Company.

Prior approval received August 3, 1982.

EFFECT OF PASSAGE Resurfacing and restoring of pavement on above listed streets.

EFFECT OF NON-PASSAGE Resurfacing and restoring of pavement on above streets will not be done

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$196,655.30 LR & S

ASSIGNED TO COMMITTEE \_\_\_\_\_